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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARTIER, division of RICHEMONT	:	
NORTH AMERICA, INC.; and	:	
CARTIER INTERNTAIONAL, N.V.,	:	Civil Action No. 08-CV-4471(LAK)
Plaintiffs,	:	
-against-	:	
SEAH LLC; SKYMALL, INC.; and	:	
JOHN DOES 1-10,	:	
Defendants.	:	

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**DEFENDANTS' RESPONSE TO MAY 22, 2008 ORDER TO SHOW CAUSE ON
PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY**

Defendants, SEAH, LLC and SKYMALL, INC. ("Defendants"), by and through the undersigned counsel, hereby respond to the Order to Show Cause entered by this Court on May 22, 2008 on Plaintiffs' Motion for Expedited Discovery, as follows:

INTRODUCTION

1. Defendants' object to and oppose expedited merits discovery in this matter for the reasons more specifically detailed below. Plaintiffs, CARTIER, division of RICHEMONT

NORTH AMERICA, INC., and CARTIER INTERNATIONAL, N.V. (“Plaintiffs”), have been reckless and less than forthright in their actions in presenting a supposed basis for expedited discovery. Defendants seek the fair opportunity to prepare and file their pre-answer motions addressing lack of personal jurisdiction, improper venue, and alternative transfer of venue before this Court considers ordering expedited merits discovery. Defendants are prepared to comply with the ordinary time periods prescribed in the Federal Rules of Civil Procedure 16 and 26 and this Court’s associated Local Rules governing discovery and are further prepared to engage Plaintiffs’ counsel in the requisite scheduling conference required by applicable court rules so that the required initial disclosures can be made.

2. What should be clear at the outset of this case is that the subject watch, the Seah Zodiac, is not being pursued by the Plaintiffs as being a so called “knock-off”. It is not a watch being sold as a Cartier on the streets of New York, or by some vendor in a back room with the intention of making one believe that the watch is a Cartier. There is no allegation that anyone has referred to the Seah Zodiac as a Cartier watch, or that anyone has attempted to compare the watch to a Cartier. The Internet and print advertising, and a cursory examination of the watch itself, reveal the intent to market a watch with focus on so-called “Sun Sign Astrology” with emphasis on the Signs of the Zodiac. Each Seah Zodiac is conspicuously branded in multiple locations with the SEAH name, along with the Zodiac Sign chosen by the customer prominently displayed on the face and side of the watch casing. *See* Composite Exhibit A to this Response containing copies of the advertisement in the SkyMall Magazine, as well as print screens from www.skymall.com and www.seahwatches.com.

3. It can reasonable inferred from the Complaint and papers filed in support of expedited discovery that CARTIER contends that it should be the only watch manufacturer,

distributor, and retailer in the United States to produce a heavy set watch with ornamental accents, regardless of whether competing manufacturers do anything to suggest that their watches are either actually a CARTIER or that they are even comparable to a CARTIER. In the case at bar, the emphasis on the Signs of the Zodiac demonstrates clear intent to distinguish the watch from the CARTIER brand and to target consumers with an interest in Sun Sign Astrology.

4. Plaintiffs have failed to provide important facts to this Court which support denial of expedited discovery. There is no motion for preliminary injunctive relief pending before this Court.

5. Instead, Plaintiffs intimate that if they were to find certain information during discovery, they might deem it advisable to seek preliminary injunctive relief. No doubt the Plaintiffs are not poised to seek a preliminary injunction against either Defendant because this case does not involve efforts by the Defendants to be secretive of their conduct. To the contrary, Defendants activities are transparent because Defendants did not believe prior to manufacturing, marketing, and distributing the Seah Zodiac that there was any cause for concern from a trade dress infringement standpoint.

6. As important is the fact that neither of the Defendants acted to stonewall the Plaintiffs upon being served with presuit cease and desist letters. Defendants immediately responded to those letters indicating that they did not believe that any act of infringement had occurred or was ongoing. However, Defendants also indicated a willingness to communicate regarding Plaintiffs' concerns. It is the Plaintiffs who then went ahead and filed the Complaint in a jurisdiction foreign to the Defendants and set out on a plan to seek expedited discovery without any prior notice to the Defendants.

7. Surely if the Plaintiffs believed that exigent risk of irreparable harm existed, they would have directed their counsel to seek preliminary injunctive relief contemporaneous with the filing of the Complaint, along with ex parte requests for a temporary restraining order and expedited discovery. Instead, Plaintiffs have resorted to generic references to case law holding that infringement is presumed to cause irreparable harm.

8. Given the time line of events that the Defendants provide for the Court's benefit, Plaintiffs are not justified in seeking the Order to Show Cause on an ex parte basis.

9. Plaintiffs filed the Complaint and had the Summonses issued by the Clerk of this Court on Tuesday, May 13, 2008, and Plaintiffs served SEAH, LLC on Friday, May 16, 2008 and SKYMALL, INC. on or about May 14, 2008.

10. Knowing that actual service of process had been perfected on the Defendants, the Plaintiffs nevertheless sought ex parte relief on or about May 20, 2008 in the form of the Order to Show Cause via their Motion to Expedite Discovery.

11. Although the Complaint had been served, no effort was made to contact or confer with either Defendant regarding consent to expedited discovery, even though as specified below, Plaintiff's counsel was fully aware that SEAH, LLC was represented by counsel that would be addressing any claims asserted by the Plaintiffs. SKYMALL, INC. had also directed Plaintiffs' counsel to address issues with the same counsel representing SEAH, LLC.

12. The Motion for Expedited Discovery was not served on the Defendants despite actual service of the Summons and Complaint.

13. Defendants' first notice of the request for expedited discovery came on May 22, 2008, just before the Memorial Day holiday weekend, when Plaintiff's counsel forwarded a brief cover letter, the Order to Show Cause, the Memorandum of Law in Support of Motion for

Expedited Discovery, and the Declaration of Tal Benschar. Plaintiffs still have not served a copy of the Motion for Expedited Discovery on the Defendants, and neither the Memorandum of Law nor the Declaration has a certificate of service, but each is dated May 20, 2008.

14. Plaintiffs' counsel was previously aware that SEAH, LLC was represented by counsel by the following events:

- a. Plaintiffs' counsel sent cease and desist letters to the Defendants on May 5, 2008, which were received on May 6, 2008. A written response to such letters was sent on May 7, 2008 by co-counsel for SEAH, LLC, Catherine Ferguson, Esq., within the three (3) day time frame requested by the Plaintiffs for a response to the cease and desist letters, as evidenced by attached Composite Exhibit B. A separate written response was provided by SKYMALL, INC.'s President, Christine Aguilera, on May 7, 2008 alerting Plaintiffs' counsel to address further inquiries to SEAH, LLC's counsel, giving Plaintiffs' notice that the same attorneys would represent SKYMALL, INC. (*see* Composite Exhibit B).
- b. On May 9, 2008, litigation counsel for SEAH, LLC, David L. Ferguson, Esq., made telephone contact with Plaintiff's counsel, Tal Benschar, Esq., offering to discuss a mechanism by which the parties might address the allegations made in the cease and desist letters even though SEAH, LLC disputes that it has violated any intellectual property right of the Plaintiffs. Mr. Ferguson provided his contact information to Mr. Benschar and clearly advised him that he was representing SEAH, LLC in any litigation. Mr. Ferguson also advised Mr. Benschar that SEAH, LLC had 440 watches in stock.

These communications with Plaintiffs' counsel demonstrates that the Defendants did not in any way ignore CARTIER's concerns about trade dress infringement.

15. Against the backdrop of open communication, Plaintiffs nevertheless sued two out-of-state defendants, perfecting service of process without any difficulty, and then silently pursued the Order to Show Cause without ever speaking to the Defendants' representatives.

16. It is noteworthy that Plaintiffs were clandestine in the effort to seek expedited discovery, but when this Court issued the Order to Show Cause, Plaintiffs' counsel immediately contacted SEAH, LLC to speak with the legal department for SEAH, LLC concerning compliance with the Order to Show Cause.

17. Receiving their first notice of the Order to Show Cause during the afternoon of Thursday, May 22, 2008, Defendants' Florida counsel scrambled to engage New York counsel as local counsel in order to meet the return date for serving and filing this Response to the Order to Show Cause. Defendants' Florida counsel intends to seek *pro hac vice* admission in this case and would appear via telephone for the May 28, 2008 hearing if permitted by this Court.¹

18. Plaintiffs' attempts to persuade the Court that expedited discovery is warranted does not focus on the injury that Defendants will suffer if the expedited relief is granted. *See Notaro v. Koch*, 95 F.R.D. 403, 405 (S.D.N.Y. 1982) (cited by the Plaintiffs). Defendants will be forced to engage in merits discovery before being given the fair opportunity to demonstrate that, respectfully, this Court is neither the proper venue nor the proper jurisdiction for this lawsuit. The Southern District of Florida is the federal judicial district in which SEAH, LLC has its principal place of business. SKYMALL, INC. has its principal place of business in Arizona.

¹ The undersigned counsel contacted Judge Kaplan's chambers on May 23, 2008 and was advised that Judge Kaplan generally does not permit telephonic appearances.

If the Court is inclined to have the parties' engage in merits discovery during the pendency of the pre-answer motion practice, Defendants seek to do so on the ordinary discovery track governed by the Federal Rules and the Local Rules of this Court. There is simply no justification for requiring the Defendants to produce documents and sit for deposition on an expedited basis.

19. As will be more fully explained in SEAH, LLC's motion to dismiss for lack of personal jurisdiction, the undersigned proffers to this Court that the only sale of a Seah Zodiac watch to someone in the Southern District of New York (or the State of New York for that matter) is the one watch purchased by an employee affiliated with the Plaintiff's counsel's law firm.

20. In fact, SEAH, LLC only began selling the Seah Zodiac (its only watch line) in April 2008 in the SKYMALL Magazine. SEAH, LLC launched its website on May 1, 2008.

21. SKYMALL, INC.'s only involvement is to publish an advertisement for the Seah Zodiac in its magazine and on its website, and to take an order from a customer forwarding payment to SEAH, LLC. SKYMALL, INC. does not ship the product to any customer. Shipment of the product comes from SEAH, LLC.

22. Plaintiff is not justified in claiming that discovery is necessary to allow it to support a possible motion for preliminary injunction. Based on their Complaint, Plaintiffs obviously believe that merely looking at the CARTIER Pasha and the Seah Zodiac, coupled with review of a prior ruling made by another judge of this Court that a completely different watch infringed Plaintiffs' trade dress, is sufficient to establish likelihood of success on the merits of the claims set forth in the Complaint.

23. Even if this Court were to rule that venue and jurisdiction are proper in this Court, Defendants have the right to contest whether the ruling in *Cartier, Inc. v. Four Star Jewelry Creations, Inc.*, 348 F. Supp. 2d 217 (S.D.N.Y. 2004) should apply to the case at bar.

24. The published decision in *Four Star* does not address whether the infringer put on a case sufficient to (a) disprove whether Plaintiffs had protectable trade dress as to all design elements alleged, or (b) otherwise established whether the design of the infringer's watch infringed on Plaintiffs' trade dress. It appears from the *Four Star* decision that the defendants were actually selling Cartier knock-offs.

25. From an irreparable harm standpoint, Plaintiffs merely suggest that trademark infringement presumably causes irreparable harm. Defendants challenge Plaintiffs' suggestion and counter that a serious question arises as to whether the design elements of the Seah Zodiac create any reasonable likelihood of confusion.

26. SEAH, LLC advised Plaintiffs' counsel presuit that it had only sold 15 watches at the time the cease and desist letters were sent. SEAH, LLC has a new product on the market. Expedited discovery will not demonstrate a large network of actors selling the Seah Zodiac.

27. In conclusion, Defendants want a fair opportunity to litigate the venue and jurisdictional issues before being required to engage in full-scale merits discovery.

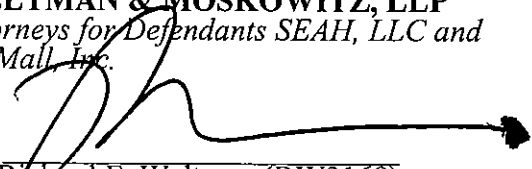
28. As demonstrated by their filings, Plaintiffs have sufficient information to put forth a preliminary injunction motion, if they are so inclined, against the Defendants. Their inaction is likely the result of the fact that they recognize that likelihood of success on the merits is not clear cut.

29. Alternatively, they may not wish to incur the time and expense of such proceedings, but desire instead to increase the burden on Defendants to respond to expedited

discovery at the same time they must first address the venue and jurisdictional grounds Plaintiffs must have surely anticipated at the time the lawsuit was filed. The foregoing, coupled with the Plaintiffs' improper and unnecessary ex parte conduct, should result in the denial of the Motion for Expedited Discovery.

WHEREFORE, Defendants respectfully request this Court deny the Motion for Expedited Discovery and grant such other relief as it deems just and proper.

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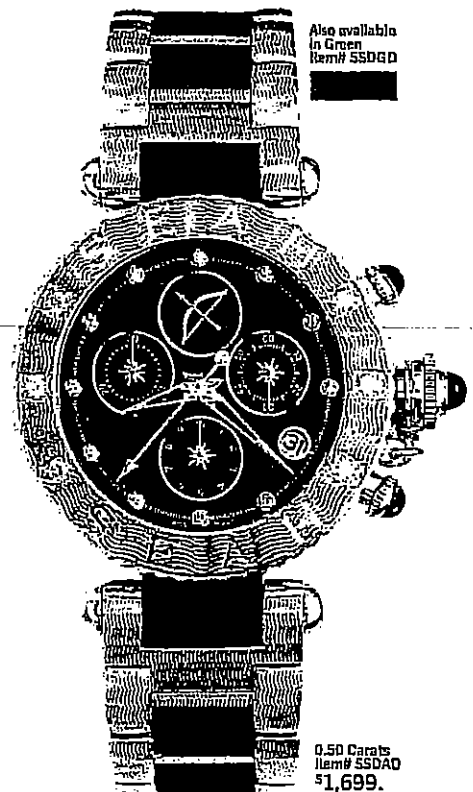
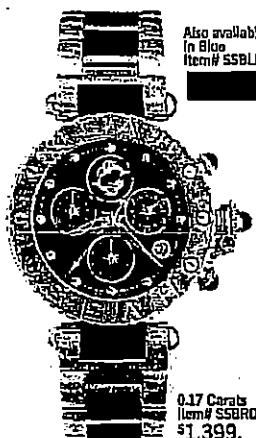
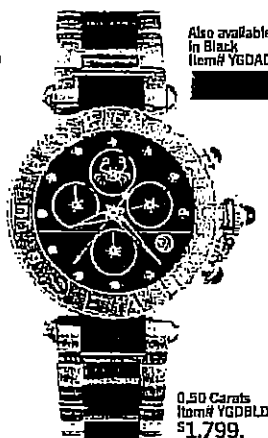
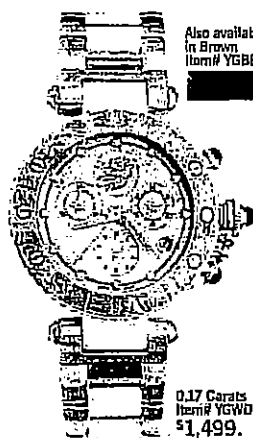
SEAH™

GIFT OF TIME™

SEAH is the connection of the universe with time, the past with the present, the zodiac sign with the being, and the being with his or her personality. SEAH reminds us of our inner traits in the form of a timepiece with a story. Read the amazing 56-page book enclosed with your watch.

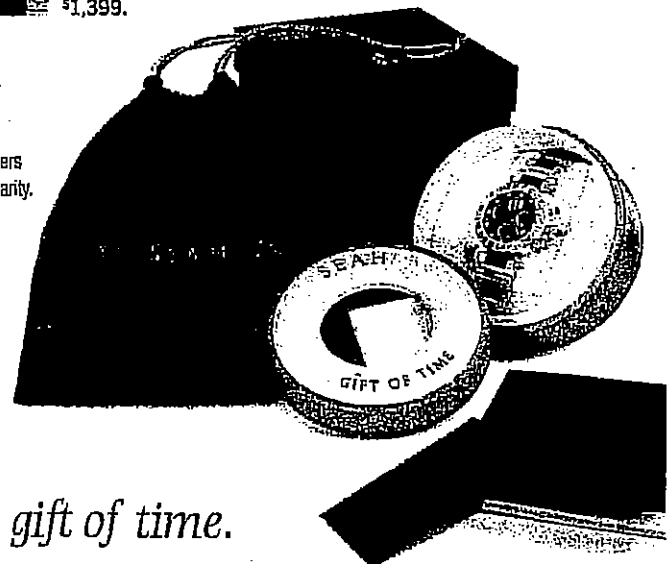
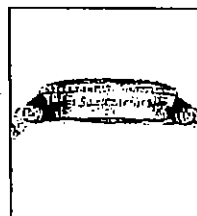
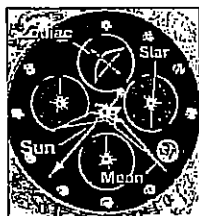
Each detail on the watch relates to nature and the universe. The bezel on the watch represents the infinite waves of the ocean. Each hour symbolizes a heavenly star. In the center of the watch lies the illuminating sun. The hands on the watch represent the powerful rays of the sun. Within each eye lies one bright star. The date is appropriately situated amidst the moon's glow. The sign, which reflects the month that one is born, appears at the watch's summit. **THE SEAH STORY IS TRULY ONE OF A KIND.**

Each Seah™ Watch is **personalized** with your sign of the zodiac.



SEAH™ Watches
are Unisex.

- Texturized 316L Stainless Steel 38mm Case and Bracelet
- Swiss Made PU 70 rubber integration.
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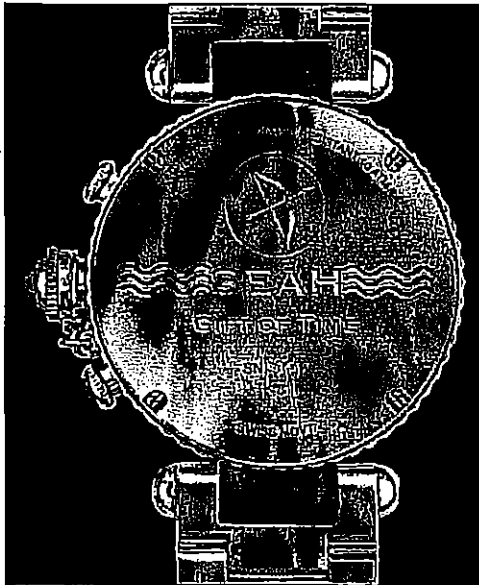
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ABOUT SEAH

THE SEAH PROJECT BEGAN SEVERAL YEARS AGO. SEAH IS THE CONNECTION OF THE UNIVERSE WITH TIME, OF THE PAST WITH THE PRESENT, OF THE ZODIAC SIGN WITH THE BEING, AND OF THE BEING WITH HIS OR HER INDIVIDUALIZED PERSONALITY. THE MEANING OF SEAH IN ARAMAIC LANGUAGE IS TIME AND HOUR. EVERY DAY, WE WORK HARD TO GAIN POSITIVE RECOGNITION IN THE FORM OF CERTIFICATES, PROMOTIONS, AND TROPHIES FROM OUR PEERS, OUR FRIENDS, OUR FAMILIES, CO-WORKERS AND SOCIETY. WHEN YOU PURCHASE A SEAH TIMEPIECE FOR YOURSELF YOU ARE HONORING YOUR CONNECTION TO UNIVERSAL TIME, WHEN YOU BUY A SEAH TIMEPIECE AND PRESENT IT TO A LOVED ONE AS A GIFT, YOUR LOVED ONE IS BEING RECOGNIZED AND APPRECIATED FOR SIMPLY BEING WHO HE OR SHE IS. AS SEAH REPRESENTS THE UNIVERSE, WE BECOME ONE WITH THIS GALACTIC SYSTEM.

SEAH TIMEPIECES WERE CREATED WITH THE UTMOST LOVE AND DEDICATION. WE HOPE THOSE THAT POSSESS SEAH TIMEPIECES ENJOY THEM AS MUCH AS WE ENJOYED CREATING THEM. THE SEAH STORY IS ONE OF ITS KIND - A STORY ABOUT AN AESTHETICALLY APPEALING TIMEPIECE INTEGRATED WITH NATURE, BEAUTY, AND SELF-RESPECT. BECAUSE OF THIS, THE SEAH TIMEPIECE IS TRULY A *GIFT OF TIME*.

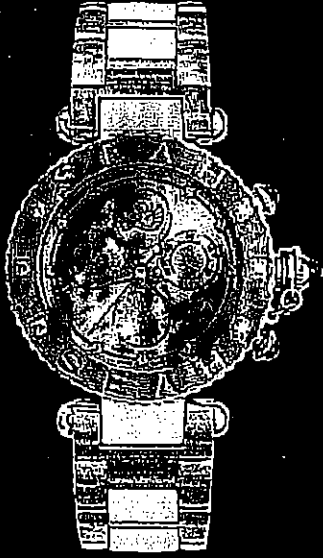
ALL SEAH WATCHES ARE PATENTED.





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1. Material



Stainless Steel

2. Color Scheme













White

3. Bezel

Diamond

4. Sign

Aries

Total Amount

\$1699

ADD TO CART

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SEAH

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OUR WATCHES

MANY YEARS AGO, PEOPLE TURNED TO THE SUN, STARS AND THE PLANETS TO MEASURE TIME. THE SUN IS OUR ORIGINAL TIMEKEEPER, THE GREAT STAR OF OUR SOLAR SYSTEM. SUN SIGN ASTROLOGY IS BASED ON THE POSITION OF THE SUN IN THE SKY AT OUR BIRTH. THE SEAH WATCH COMBINES THE ORIGINAL TIMEKEEPER WITH OUR CURRENT SYSTEM OF MEASURING TIME. EACH SEAH TIMEPIECE TELLS A STORY ABOUT THE QUALITIES ATTRIBUTED TO A ZODIAC SIGN SO THAT ONE UNDERSTANDS AND CONNECTS TO NATURE'S SEASONAL CYCLES. SEAH REMINDS US OF OUR INNER TRAITS IN THE FORM OF A TIMEPIECE WITH A STORY.

EVERY COMPONENT OF THE SEAH WATCH CONNECTS TO THE UNIVERSE AND NATURE. THE BEZEL ON THE WATCH REPRESENTS THE INFINITE WAVES OF THE OCEAN. EACH HOUR DISPLAYS A HEAVENLY STAR. THE HANDS ON THE WATCH REPRESENT THE SUN'S POWERFUL RAYS. WITHIN EACH EYE LIES ONE BRIGHT STAR. THE DATE IS APPROPRIATELY SITUATED AMIDST THE MOON'S GLOW. THE SIGN, WHICH REFLECTS THE MONTH THAT ONE IS BORN, APPEARS AT THE WATCH'S SUMMIT. AS SEAH REPRESENTS THE UNIVERSE, WE BECOME ONE WITH THIS GALACTIC SYSTEM.

WHEN YOU PURCHASE THIS TIMEPIECE, YOUR WATCH COMES IN A UNIQUE PACKAGE. YOU WILL ALSO RECEIVE A FIFTY-SIX (56) PAGE BOOK; IN IT, YOU WILL FIND A PERSONAL STORY THAT WAS WRITTEN BY A CERTIFIED ASTROLOGICAL EXPERT ABOUT ALL TWELVE ZODIAC SIGNS IN ADDITION TO VIBRANT PICTURES THAT RELATE TO YOUR SIGN.

BECAUSE OF THIS, THE SEAH WATCH IS TRULY A GIFT OF TIME.

SEAH WATCHES INCLUDE THE FOLLOWING FEATURES:

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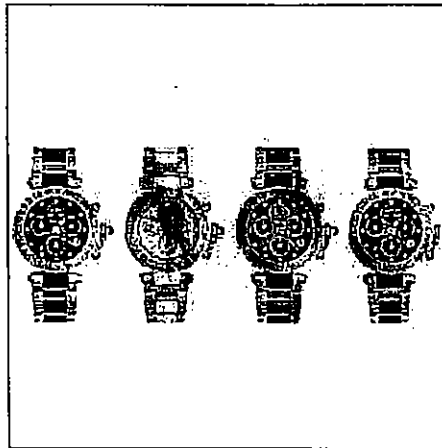
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SEAH Watches



MAGNIFY PICTURE

Price: \$1,399.00 - \$1,799.00

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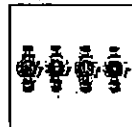
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SEAH - Gift of Time

SEAH is the connection of the universe with time, the past with the present, the zodiac sign with the being, and the being with his or her personality. SEAH reminds us of our inner traits in the form of a timepiece with a story. Read the amazing 56-page book enclosed with your watch.

Each detail on the unisex watch relates to nature and the universe. The bezel on the watch represents the infinite waves of the ocean. Each hour symbolizes a heavenly star. In the center of the watch lies the illuminating sun. The hands on the watch represent the powerful rays of the sun. Within each eye lies one bright star. The date is appropriately situated amidst the moon's glow. The sign, which reflects the month that one is born, appears at the watch's summit.

THE SEAH STORY IS TRULY ONE OF A KIND.

YOU MIGHT ALSO LIKE...



Seah Zodiac Watch Gold Brown
Price: \$1,499.00



Seah Zodiac Watch Gold White
Price: \$1,499.00

Seah Zodiac Watch Gold Black
Price:

Limited Introductory pricing!

All SEAH watches are patented.

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For fastest delivery, products are shipped to you from each individual merchant. Delivery times may vary, but when you place an order with SkyMall, we will estimate the shipping and delivery dates for you based on the availability of your items and the shipping options you choose. Shipping date estimates will appear in the order. Once you've placed your order, you will be able to see both shipping and delivery date estimates in the order confirmation e-mail and in the relevant order summary in Your Account. Delivery times do not include weekends or holidays.

Gift Cards - Available in \$25, \$50 and \$100 denominations, they are always the perfect gift and are available. Standard Delivery for Individual Gift Card orders is always FREE! (For larger corporate or bulk Gift Card orders please call us for more info.)

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To expedite your order, merchandise is shipped direct from each merchant. Average delivery time is 7-10 days. The fees below apply to standard delivery charges unless otherwise noted. However, some items require up to 2 to 3 weeks for delivery due to weight and/or personalization. For mailed orders, please allow an additional 10 business days for delivery. The fees below apply to standard delivery charges unless otherwise noted.

Merchandise Total	Standard Delivery
Up to \$20.00	\$7.00
\$20.01-\$40.00	\$9.00
\$40.01-\$60.00	\$11.00
\$60.01-\$80.00	\$13.00
\$80.01-\$100.00	\$15.00
\$100.01-\$150.00	\$17.00
\$150.01-\$200.00	\$19.00
More Than \$200.00	\$21.00

Shipments to Alaska, Hawaii and Puerto Rico require an additional delivery charge. Due to the unique nature of the item, some products cannot be shipped to Alaska, Hawaii and Puerto Rico.

Rush Delivery

Delivery in 2 to 4 business days is available on most merchandise. An additional charge may apply and will be calculated at checkout. Some products require expedited shipping due to size, weight or the perishable nature of the product. Additional charges are listed on the product detail page.

Next Day Delivery

Orders for in-stock merchandise received by 12 noon EST Monday-Friday are eligible for delivery within the Continental U.S. on the next business day. If you order an item with the Next Day Shipping option after 12 noon EST, Monday - Friday, the item will usually ship on the following business day, requiring a total of two business days for delivery. For example, an order received after 12 noon on Monday may be delivered on Wednesday. An order received after 12 noon on Friday may be delivered on Tuesday. Additional charges apply and will be calculated at checkout.

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Satisfaction. Your complete satisfaction is our first concern. If you're unhappy with any purchase, for any reason, you can return it within 60 days for exchange or refund. Guaranteed.

Items ship directly from individual stores. To ensure proper exchanges and credits, items should be returned to the stores from which they shipped. **MORE INFO...**



\$1,799.00



Seah Zodiac
Watch Gold
Blue
Price:
\$1,799.00

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However, if you find an identical new product advertised for less, just send us the ad and we'll honor the lower price. Also, if within 30 days of receipt of your order, you find the identical product advertised for a lower price, send us the ad and we'll promptly refund the difference. [MORE INFO...](#)

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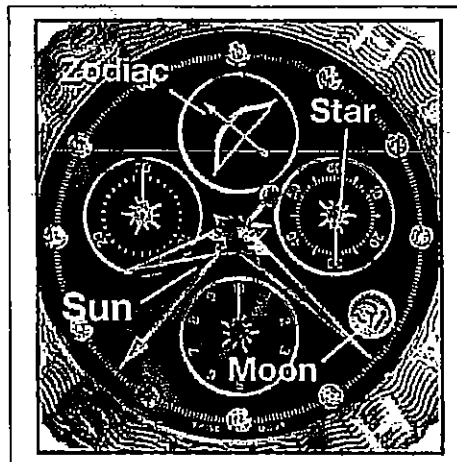
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SEAH Zodiac Diamond Watches

SEAH Watches



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Price: \$1,399.00 - \$1,799.00
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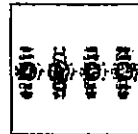
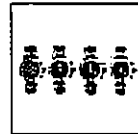
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SEAH - Gift of Time

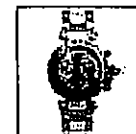
SEAH is the connection of the universe with time, the past with the present, the zodiac sign with the being, and the being with his or her personality. SEAH reminds us of our inner traits in the form of a timepiece with a story. Read the amazing 56-page book enclosed with your watch.

Each detail on the unisex watch relates to nature and the universe. The bezel on the watch represents the infinite waves of the ocean. Each hour symbolizes a heavenly star. In the center of the watch lies the illuminating sun. The hands on the watch represent the powerful rays of the sun. Within each eye lies one bright star. The date is appropriately situated amidst the moon's glow. The sign, which reflects the month that one is born, appears at the watch's summit.

YOU MIGHT ALSO LIKE...



**Seah Zodiac
 Watch Gold
 Brown**
 Price:
 \$1,499.00



**Seah Zodiac
 Watch Gold
 White**
 Price:
 \$1,499.00

Seah Zodiac

THE SEAH STORY IS TRULY ONE OF A KIND.**Limited Introductory pricing!**

All SEAH watches are patented.

Delivery Information

For fastest delivery, products are shipped to you from each individual merchant. Delivery times may vary, but when you place an order with SkyMall, we will estimate the shipping and delivery dates for you based on the availability of your items and the shipping options you choose. Shipping date estimates will appear in the order. Once you've placed your order, you will be able to see both shipping and delivery date estimates in the order confirmation e-mail and in the relevant order summary in Your Account. Delivery times do not include weekends or holidays.

Gift Cards - Available in \$25, \$50 and \$100 denominations, they are always the perfect gift and are available. Standard Delivery for Individual Gift Card orders is always FREE! (For larger corporate or bulk Gift Card orders please call us for more info.)

Standard Delivery

To expedite your order, merchandise is shipped direct from each merchant. Average delivery time is 7-10 days. The fees below apply to standard delivery charges unless otherwise noted. However, some items require up to 2 to 3 weeks for delivery due to weight and/or personalization. For mailed orders, please allow an additional 10 business days for delivery. The fees below apply to standard delivery charges unless otherwise noted.

Merchandise Total	Standard Delivery
Up to \$20.00	\$7.00
\$20.01-\$40.00	\$9.00
\$40.01-\$60.00	\$11.00
\$60.01-\$80.00	\$13.00
\$80.01-\$100.00	\$15.00
\$100.01-\$150.00	\$17.00
\$150.01-\$200.00	\$19.00
More Than \$200.00	\$21.00

Shipments to Alaska, Hawaii and Puerto Rico require an additional delivery charge. Due to the unique nature of the item, some products cannot be shipped to Alaska, Hawaii and Puerto Rico.

Rush Delivery

Delivery in 2 to 4 business days is available on most merchandise. An additional charge may apply and will be calculated at checkout. Some products require expedited shipping due to size, weight or the perishable nature of the product. Additional charges are listed on the product detail page.

Next Day Delivery

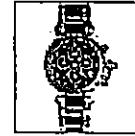
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More Delivery Information**Shop worry-free**

Satisfaction. Your complete satisfaction is our first concern. If you're unhappy with any purchase, for any reason, you can return it



**Watch Gold
Black**
Price:
\$1,799.00



**Seah Zodiac
Watch Gold
Blue**
Price:
\$1,799.00

within 60 days for exchange or refund. Guaranteed.

Items ship directly from individual stores. To ensure proper exchanges and credits, items should be returned to the stores from which they shipped. [MORE INFO...](#)

Pricing. With SkyMall, there's no need to comparison shop. We bring you the best products from the best catalogs and brands with no markup! The prices in SkyMall are the same as the prices of the more than 50 companies that mail catalogs to your home.

However, if you find an identical new product advertised for less, just send us the ad and we'll honor the lower price. Also, if within 30 days of receipt of your order, you find the identical product advertised for a lower price, send us the ad and we'll promptly refund the difference. [MORE INFO...](#)

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EN ESPAÑOL

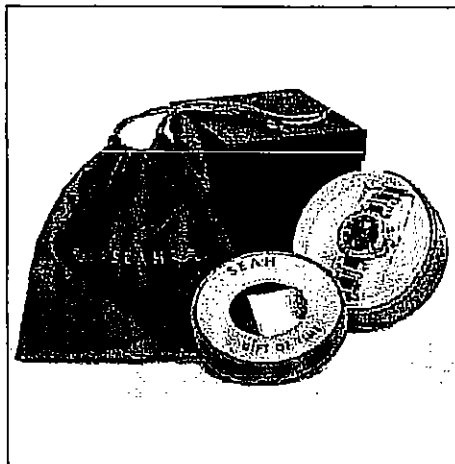
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SEAH Watches



MAGNIFY PICTURE

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[DELIVERY PRICING...](#)

SEE OUR LOWEST PRICE GUARANTEE

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[add to wishlist](#)

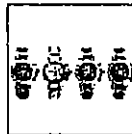
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NO PAYMENTS FOR 90 DAYS
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Product Details

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SkyMall Guarantee

SEAH - Gift of Time

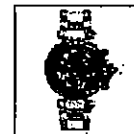
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Shop worry-free

Satisfaction. Your complete satisfaction is our first concern. If you're unhappy with any purchase, for any reason, you can return it



**Watch Gold
Black
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**Seah Zodiac
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→ >

Exhibit B

From: Unavailable Page: 2/4 Date: 5/7/2008 6:22:51 PM



May 7, 2008

VIA FAX 212.813.9600

Milton Springut, Esq.
Kalow & Springut, LLP
488 Madison Avenue
New York, NY 10022

Re: Alleged Infringement of Cartier Trade Dress

Dear Mr. Springut:

I write in response to your letter dated May 5, 2008, in which you allege that your client Cartier's Trade Dress in the PASHA watch design has been infringed. Our Vendor, Seah, LLC, has intellectual property protection for the Seah Watch Design, which includes copyright, patent, and trademark protection.

Seah's attorney has already sent you a letter responsive to your demands in the aforementioned letter. Please contact them directly if you have any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christine Agullera".

Christine A. Agullera
President

Enclosure

cc: Vice President, Sales and Merchandising
Vice President of Marketing
Catalog Product Manager
Product Manager
Merchandising Analysts (3)
C. Ferguson - Malin, Haley & DiMaggio, PA

From: Unavailable Page: 3/4 Date: 5/7/2008 6:22:51 PM
MAY-07-2008 WED 06:19 PM MAIL IN, MALEY & DIMAGGIO

MALIN HALEY DIMAGGIO
BOWEN & LEOTA, P.A.
PATENT, TRADEMARK & COPYRIGHT ATTORNEYS

Celebrating 40 Years

CATHERINE FERGUSON
Member of Florida Bar
E-Mail: CF@MHDpatents.com

MAIN OFFICE:
1936 S. Andrews Avenue
Fort Lauderdale, Florida 33316
Telephone: (954) 763-3303
Fax: (954) 522-6507

May 7, 2008

Milton Springut, Esq.
Kalow & Springut, LLP
488 Madison Avenue
New York, NY 10022

VIA FEDERAL EXPRESS

Re: Alleged Infringement of Cartier Trade Dress

Dear Mr. Springut:

This letter is in response to your letter dated May 5, 2008, addressed to my client, Seah LLC, in which you allege that my client has infringed your client, Cartier's Trade Dress in the PASHA watch design. My client has acquired federal patent, copyright, and trademark rights to their Seah Zodiac Watch Design, which my client intends to vigorously protect.

In your letter you have alleged that my client's Seah Zodiac watch design is confusingly similar to your client's PASHA watch design; however, you have provided no evidence to support your conclusory contention. You fail to specify the particular model of watch or watches at issue. Rather, you make reference to the entire line of PASHA watches. With the limited information you have provided, my research indicates that there are no PASHA watches that are even arguably similar to any of my client's unique watch designs. If you believe in good faith that there is confusing similarity between specific watches produced by my client and your client, identify them. However, based upon the limited information you have provided, your client's contentions appear baseless and they will not withstand a Rule 11 challenge, if litigated.

This morning my client discovered that you also sent a demand letter to my client's distributor Sky Mall. Your client's baseless threats and demands upon Sky Mall constitute tortious interference.

In the event that your client continues to make threats and demands of this nature, my client will have no other choice but to seek all legal and equitable remedies available under the Federal Trademark, Copyright, and Patent Laws including recovery of its costs (and attorneys' fees) in resolving this dispute. By virtue of my client's federal intellectual property rights, its rights are superior to any party's rights, including your client's.

FORT LAUDERDALE

MIAMI

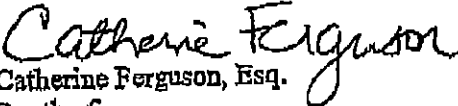
WEST PALM BEACH

From: Unavailable Page: 4/4 Date: 5/7/2008 6:22:52 PM
MAY-07-2008 WED 05:20 PM MALIN, HALEY & DIMAGGIO PHA NO: 0370220001

Page 2

The statements and demands herein are made in full reservation of all of my client's rights, remedies, and defenses available against your client.

Sincerely,
MALIN, HALEY & DIMAGGIO, P.A.


Catherine Ferguson, Esq.
For the firm

cc: David L. Ferguson, TKO, P.A. (litigation counsel)

Id:venh,artlit,resp,psc,ca2d.doc

PORT LAUDERDALE

MIAMI

WEST PALM BEACH

Richard E. Weltman (RW3169)
 WELTMAN & MOSKOWITZ, LLP
 270 Madison Avenue, Suite 1400
 New York, New York 10016
 212.684.7800
Local Counsel to Defendants SEAH, LLC and SkyMall, Inc.

-and-

David L. Ferguson (DF8500)
 Jonathan M. Streisfeld (JS5750)
 THE KOPELOWITZ OSTROW FIRM, P.A.
 200 SW 1st Avenue, 12th Floor
 Fort Lauderdale, Florida 33301
 954.525.4100
Counsel to Defendants SEAH, LLC and SkyMall, Inc.

Attorneys for Defendants SEAH, LLC and SkyMall, Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----x

CARTIER, division of RICHEMONT	:	
NORTH AMERICA, INC.; and	:	
CARTIER INTERNATIONAL, N.V.,	:	Civil Action No. 08-CV-4471(LAK)
Plaintiffs,	:	
-against-	:	
SEAH LLC; SKYMALL, INC.; and	:	
JOHN DOES 1-10,	:	
Defendants.	:	

-----x

DECLARATION OF RACHEL LEVY

RACHEL LEVY, Managing Member of SEAH, LLC, declares that:

1. SEAH, LLC is marketing a watch with focus on "Sun Sign Astrology" with emphasis on the Signs of the Zodiac. Each Seah Zodiac is conspicuously branded in multiple locations with the SEAH name, along with the Zodiac Sign chosen by the customer prominently displayed on the face, side of the watch casing, on the back of the watch, and on the watch bracelet.

2. SEAH, LLC only began selling the Seah Zodiac (its only watch line) in April 2008 in the SKYMALL Magazine. SEAH, LLC launched its own website on May 1, 2008.

3. SKYMALL, INC.'s only involvement is to publish an advertisement for the Seah Zodiac in its magazine and on its website, and to take an order from a customer and forwarding payment to SEAH, LLC.

4. SKYMALL, INC. does not ship the product to any customer. Shipment of the product comes from SEAH, LLC.

5. Upon receipt of the cease and desist letter from Cartier's counsel, I directed Florida counsel for SEAH, LLC to address the issues raised in the letter and directed that Florida counsel notify Plaintiffs' counsel to deal with the company's Florida counsel, David Ferguson, Esq.


6. SEAH, LLC received its first notice of the Order to Show Cause during the afternoon of Thursday, May 22, 2008, when a letter was delivered from Cartier's counsel.

7. Shortly thereafter, Cartier's counsel called SEAH, LLC's Sunrise, Florida office demanding to speak with the legal department for SEAH, LLC concerning compliance with the Order to Show Cause. Thereafter, I immediately contacted Florida litigation counsel and directed that the Order to Show Cause be addressed by Florida counsel.

8. Florida litigation counsel assisted SEAH, LLC in retaining New York counsel, Weltman & Moskowitz, LLP, on Friday, May 23, 2008.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 27, 2008
Fort Lauderdale, Florida



RACHEL LEVY, Managing Member
of SEAH, LLC

Richard E. Weltman (RW3169)
WELTMAN & MOSKOWITZ, LLP
270 Madison Avenue, Suite 1400
New York, New York 10016
212.684.7800
Local Counsel to Defendants SEAH, LLC and SkyMall, Inc.

-and-

David L. Ferguson (DF8500)
Jonathan M. Streisfeld (JS5750)
THE KOPELOWITZ OSTROW FIRM, P.A.
200 SW 1st Avenue, 12th Floor
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954.525.4100
Counsel to Defendants SEAH, LLC and SkyMall, Inc.

Attorneys for Defendants SEAH, LLC and SkyMall, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CARTIER, division of RICHEMONT	:	
NORTH AMERICA, INC.; and	:	
CARTIER INTERNTAIONAL, N.V.,	:	Civil Action No. 08-CV-4471(LAK)
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
SEAH LLC; SKYMALL, INC.; and	:	
JOHN DOES 1-10,	:	
	:	
Defendants.	:	

-----X

AFFIDAVIT OF SERVICE


STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Debra Chen, being duly sworn, deposes and says:

1. I am not a party to the action, am over 18 years of age, and reside in the County of Hudson, State of New Jersey.

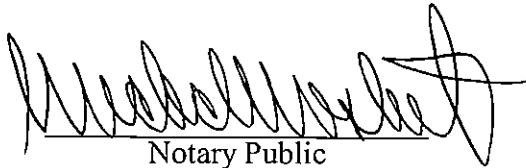
2. On May 27, 2008, I served a true copy of the annexed Response and Affidavit by transmitting the same to the attorney by electronic means to the telephone number or other station or other limitation designated by the attorney for that purpose. In doing so I received a signal from the equipment of the attorney indicating that the transmission was received as indicated below:

Milton Springut, Esq.
Kalow & Springut, LLP
Attorneys for Debtor
488 Madison Avenue
New York, New York 10022
212.813.9600



DEBRA CHEN

Sworn to before me this
27th day of May, 2008



Notary Public

MICHAEL L. MOSKOWITZ
Notary Public, State of New York
No. 4766946
Qualified in Nassau County
Commission Expires Feb. 28, 2011